

Title 2. California Public Employees' Retirement System

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to amend the regulations described in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed actions.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend CalPERS Board of Administration regulations to implement Government Code Section 7513.85, which requires the Board develop and implement a policy requiring the disclosure of payments to placements agents in connection with CalPERS investments in or through external managers.

II. WRITTEN COMMENT PERIOD

Any person interested may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5 p.m. on May 17, 2010. The Regulations Coordinator must receive all written comments by close of the comment period. Comments may be submitted via fax at (916) 795-4607; email at the following address: veronica_mora@calpers.ca.gov; or mail to the following address:

Veronica Mora, Regulations Coordinator
California Public Employees' Retirement System
P.O. Box 942707
Sacramento, California 94229-2707
Telephone: (916) 795-0713

III. PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the Investment Committee of the CalPERS Board:

May 17, 2010
9:00 a.m.
California Public Employees' Retirement System
Lincoln Plaza North, Auditorium
400 Q Street, Sacramento, California, 95811.

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IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

V. AUTHORITY AND REFERENCE

The CalPERS Board of Administration has the plenary authority and fiduciary responsibility for investments of moneys and administration of CalPERS, pursuant to the California Constitution (Section 17 of Article XVI) and the Public Employees' Retirement Law (PERL) (California Government Code Title 2, Division 5, Part 3). The proposed regulation is implementing, interpreting and making specific Government Code Section 7513.85.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In the fall of 2009 Assembly Bill 1584 was passed by the Legislature and signed into law by the Governor. This Assembly Bill added Government Code Section 7513.85 which requires the California Public Employees' Retirement System (CalPERS) to adopt a policy requiring the disclosure of payments to placements agents in connection with CalPERS' investments with external managers by June 30, 2010. This regulation is being proposed to comply with the new Government Code requirement.

The proposed regulation will add transparency to the CalPERS Investment decision making process by requiring the disclosure of the existence of relationship between CalPERS managers (defined as External Managers) and placement agents and the fees that are paid to these placement agents. The proposed regulation will help ensure that CalPERS investment decisions are consistent with investment policy and fiduciary responsibilities, to increase the pool of information available to CalPERS Board members, staff and consultants when evaluating an investment opportunity, and to help prevent impropriety and the appearance of impropriety and to provide transparency and confidence in CalPERS investment decision-making processes.

VII. EFFECT ON SMALL BUSINESS

Small businesses that are in the placement agent business or investment management business may be impacted by this proposed regulation. The impacts are reasonable given the public policy concerns related to placement agent, their fees, and their potential involvement in CalPERS' investment decision-making processes. Notwithstanding the foregoing, any "small business" as defined by Government Code Section 11342.610 will not be impacted.

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VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impose costs or savings for any local agency or school district which must be reimbursed in accordance with Government Code sections 17500-17630.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action has no significant statewide adverse economic impact directly affecting businesses, including the ability of business in California to compete with business in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** The CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect.

IX. CONSIDERATION OF ALTERNATIVES

The Board must determine no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is

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proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Marte Castaños, Senior Staff Counsel
California Public Employees' Retirement System
P.O. Box 942707
Sacramento, California 94229-2707
Telephone: (916) 795-3675

Please direct requests concerning the processing of this regulatory action to Veronica Mora, Regulations Coordinator, at (916) 795-0713 or veronica_mora@calpers.ca.gov.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation and the Initial Statement of Reasons (ISR). A copy of the proposed text and the ISR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons (FSR) can be obtained, once it has been prepared, by written request to Veronica Mora, Regulations Coordinator, at the address shown in Section II.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public comment period has closed. It may amend CCR section 559, if the changes are sufficiently related to the original text so that the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional

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public comment period of not less than 15 days prior to the date on which the board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.

- XIII. One can access the regulatory material regarding this action at www.calpers.ca.gov; About CalPERS; Legislation, Regulations, and Statutes; Regulatory Actions; Current Regulatory Actions.